

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 42.20.102 pertaining to) PROPOSED AMENDMENT
applications for property tax)
exemptions)

TO: All Concerned Persons

1. On December 5, 2013, at 2 p.m., the Department of Revenue will hold a public hearing in the Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed amendment of the above-stated rule. The conference room is most readily accessed by entering through the east doors of the building.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, please advise the department of the nature of the accommodation needed, no later than 5 p.m. on November 22, 2013. Please contact Laurie Logan, Department of Revenue, Director's Office, PO Box 7701, Helena, Montana 59604-7701; telephone 406.444.7905; fax 406.444.3696; or e-mail lalogan@mt.gov.

3. The rule proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

42.20.102 APPLICATIONS FOR PROPERTY TAX EXEMPTIONS (1) The property owner of record, the property owner's agent, or a federally recognized tribe, must file an application for a property tax exemption on a form available from the local department office before March 1, except as provided in ARM 42.20.118 ~~for 2012, of the year for which the exemption is sought or within 30 days after receiving an assessment notice, whichever is later.~~ Applications postmarked after March 1 ~~or more than 30 days of receiving the assessment notice, whichever is later,~~ will be considered for the following tax year only, unless the department determines any of the following conditions are met:

(a) the taxpayer receives notice by way of an AB-34 (Removal of Property Tax Exemption) that the property will be placed on the tax roll. The taxpayer shall have 30 days after receipt of the notice to submit an application for exemption; or

(b) the applicant was unable to apply for the current year due to hospitalization, physical illness, infirmity, or mental illness; and

(c) the applicant can demonstrate, while not necessarily continuous, the impediment(s) existed at sufficient levels in the period of January 1 to March 1, of the tax year in which the applicant is applying, to prevent timely filing of the application.

(2) The following documents must accompany all applications, unless the applicant is a federally recognized tribe:

- (a) and (b) remain the same.
- (c) if the applicant has been granted tax-exempt status by the Internal Revenue Service (IRS), a copy of the applicant's tax-exempt status letter (501 determination);
- ~~(d) a letter:~~
 - (i) identifying the parcel by geocode, assessor code, legal description, or physical address; ~~and~~
 - (ii) explaining how the organization, or society, ~~believes it~~ qualifies for the property tax exemption; ~~and~~
 - (iii) stating the specific use of the real or personal property.
- (3) ~~For an exemption application of a federally recognized tribe, the following documents~~ A tribal resolution must accompany all applications submitted by a federally recognized tribe that:
 - ~~(a) a tribal resolution identifying~~ identifies the fee land, by legal description;
 - ~~(b) language stating~~ states the type of exemption the tribe is requesting;
 - ~~(c) language stating~~ states how the property qualifies for ~~that type of the~~ exemption; and
 - ~~(d) a statement regarding~~ states the specific and exclusive use of the real or personal property.
- (4) For personal property exemption applications, the following documents must accompany all applications:
 - (a) a copy of the title of motor vehicle or mobile home; ~~or a letter of explanation~~ identifying ownership, if title is not applicable, ~~a letter identifying ownership~~; and
 - (b) a photograph of the property.
- (5) For real property exemption applications, the following documents must accompany the applications:
 - (a) a copy of a fully executed deed, or a contract for deed, or a notice of purchaser's interest, or a security agreement identifying ownership.
- (6) For real property exemption applications where the applicant is requesting exemption of property used for religious purposes, the following documents must accompany the application:
 - (a) remains the same.
 - (b) if the applicant is a federally recognized tribe, a copy of the tribal resolution:
 - (i) identifying the fee land by legal description, not to exceed 15 acres, as sacred land to be used exclusively for religious purposes, ~~by legal description, language;~~
 - (ii) stating the type of exemption the tribe is requesting; ~~and~~
 - (iii) language stating how the property qualifies for this type of exemption, ~~not to exceed 15 acres.~~
- (7) For real property exemption applications where the applicant is requesting exemption of property used for educational purposes, the following documents must accompany the application:
 - (a) through (d) remain the same.
 - (e) if the applicant is a federally recognized tribe, a copy of the tribal resolution;

(i) identifying the fee land, by legal description, to be used exclusively for educational purposes, ~~by legal description, language;~~

(ii) stating the type of exemption the tribe is requesting; and

(iii) ~~language~~ stating how the property qualifies for this type of exemption.

(8) For real property exemption applications where the applicant is requesting exemption of property used for nonprofit healthcare facilities, the following documents must accompany the application:

(a) remains the same.

(b) if the applicant is a federally recognized tribe, a copy of the tribal resolution;

(i) identifying the fee land, by legal description, to be used exclusively for health care services, ~~by legal description, language;~~

(ii) stating the type of exemption the tribe is requesting; and

(iii) ~~language~~ stating how the property qualifies for this type of exemption.

(9) For real property exemption applications where the applicant is requesting exemption of property used solely in connection with a cemetery or cemeteries, the following documents must accompany the application:

(a) and (b) remain the same.

(c) if the applicant is a federally recognized tribe, a copy of the tribal resolution;

(i) identifying the fee land, by legal description, to be used exclusively as a cemetery or cemeteries, ~~by legal description, language;~~

(ii) stating the type of exemption the tribe is requesting; and

(iii) ~~language~~ stating how the property qualifies for this type of exemption.

(10) through (12) remain the same.

~~(13) The department will employ the following exemption criteria for real properties when considering exemption claims based upon 15-6-201, 15-6-203, 15-6-209, 15-6-211, 15-6-216, 15-6-221, and 15-6-230, MCA.~~

~~(a) Real property purchased by a qualifying exemption applicant after January 1 of the current tax year will become exempt on the date of acquisition as evidenced by the deed and realty transfer certificate, if an application (if one is required for the exemption) is filed by the application deadline for that tax year and the property meets statutory requirements.~~

AUTH: 15-1-201, 15-6-230, MCA

IMP: 7-8-2307, 15-6-201, 15-6-203, 15-6-209, 15-6-211, 15-6-216, 15-6-221, 15-6-230, 15-7-102, MCA

REASONABLE NECESSITY: The department proposes to amend ARM 42.20.102 to correct an inequitable situation that exists in the current language in the rule relative to applying for property tax exemptions in general. Section 15-8-201, MCA, requires the department to assess all property to the person by whom it was owned, claimed, or in possession of on January 1. Taxpayers may file for an exemption of their property taxes within 30 days after receiving their assessment notices.

When a property transfer occurs very early in the calendar year, the department typically has time to record the ownership transfer prior to processing

that year's property assessment notices. For acquisitions occurring closer to the department's assessment notice processing time, the opportunity to update the record of transfer ahead of the assessment notice mailing does not exist.

In those instances, the owners of the property acquired later do not have the same opportunity to file for an exemption that the owners of property acquired earlier in the year do, and must wait to file for an exemption in the following tax year instead. This creates a situation where not all property owners who acquire property after January 1 in a given year are being treated the same. Therefore, the department proposes to remove the 30-day language in (1) and to strike (13) altogether to remove the language that has previously allowed for this inequity to occur.

The department further proposes to restructure the language in (1) through (9) to improve the readability of the rule.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Laurie Logan, Department of Revenue, Director's Office, PO Box 7701, Helena, Montana 59604-7701; telephone 406.444.7905; fax 406.444.3696; or e-mail lalogan@mt.gov and must be received no later than December 12, 2013.

5. Laurie Logan, Department of Revenue, Director's Office, has been designated to preside over and conduct the hearing.

6. An electronic copy of this notice is available on the department's web site at revenue.mt.gov. It can be found by selecting the "Administrative Rules" link in the left hand column of the homepage under the "Public Meetings" heading. The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. While the department also strives to keep its web site accessible at all times, in some instances it may be temporarily unavailable due to system maintenance or technical problems.

7. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in 4 above or faxed to the office at 406.444.3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the department has

determined that the proposed amendments to the rule contained in this notice will not significantly or directly impact small businesses.

/s/ Laurie Logan
LAURIE LOGAN
Rule Reviewer

/s/ Mike Kadas
MIKE KADAS
Director of Revenue

Certified to Secretary of State November 4, 2013